THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17740 of 1998

DATED: 28.02.2007

BETWEEN:

Tenugula Rajaiah and another.

…Petitioners

and

The Government of A.P., rep. by its
Prl. Secretary, Irrigation Department,
Secretariat,
Hyderabad.

....Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17740 of 1998

ORDER

This writ petition is filed seeking mandamus directing the respondents nor to dispossess the petitioners from their lands nor to construct a check dam to 'Janneru Vagu Stream' without following due procedure provided under the provisions of the Land Acquisition Act, 1894 (for short, 'the Act') and without paying compensation to the petitioners, as arbitrary and illegal.

2. It is the case of the petitioner Nos.1 and 2 that they own wet lands in an extent of Ac.3-08 gts. in Sy.No.407 and Ac.0-30 gts. in Sy.Nos.405 & 406, respectively, situated at Kondapur village of Velgatoor Mandal, Karimnagar District. The source of irrigation of their lands at Kondapur and other adjacent villages is Jangalnala project, and "Janneru Vagu Stream" is the perennial source of irrigation to their lands. Even though a check dam was constructed about 1000 meters away from their lands, the fifth respondent, who is having Ac.10-00 of land in nearby area, in order to irrigate his lands approached the respondent Nos.2 and 4 for construction of a check dam to "Janneru Vagu Stream". If the said check dam is constructed, their lands will be completely submerged and become useless for cultivation.

3. The grievance of the petitioners is that the second respondent inspected the site and taken unilateral decision to construct a check

dam to ‘Janneru Vagu Stream’, without following due procedure under law and without invoking the provisions of the Act.

4. Heard the learned counsel for the petitioners and learned Assistant Government Pleader for Revenue.

5. This Court on 13-07-1998 while issuing *Rule* nisi, ordered notice to the respondents in W.P.M.P.No.21159 of 1998, and thereafter on 07-09-1998 granted interim direction. Despite the said fact, the respondents have not filed any counter affidavit.

6. Having heard the learned counsel and upon perusing the affidavit filed in support of the petition, this Court feels it appropriate to direct the respondents not to dispossess the petitioners from the lands in question and not to construct a check dam to ‘Janneru Vagu Stream’, without following due procedure provided under the Act.

7. Accordingly, the writ petition is disposed of. No costs.

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(GOPALA KRISHNA TAMADA,J)

28.02.2007
vv